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Federal Communications Commission

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Before the
Federal Communications Commission
Washington D.C. 20554

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In the Matter of

Federal State Joint board on)	
Universal service:)	
Promoting Deployment and)	CC Docket No 96-45
Subscribership in Unserved)	
in Underserved Areas including)	
Tribal and Insular Areas)	

Submitted November 1, 1999

**COMMENT BY THE NATIONAL TELECOMMUNICATIONS AUTHORITY OF THE
REPUBLIC OF THE MARSHALL ISLANDS TO FURTHER NOTICE OF PROPOSED
RULE MAKING**

BACKGROUND

The Marshall Islands National Telecommunications Authority ("NTA") is the sole provider of telecommunications services in the Republic of the Marshall Islands ("RMI"). NTA is partially privatized and, under the existing legal framework, the RMI Government currently remains entitled to a 25% ownership. The balance of shares is owned or available for purchase by citizens of the RMI, and approximately 10% of NTA's shares are actually owned by RMI citizens.

This memorandum addresses only those parts of the proposed rule making that affect the definition of "insular areas", namely paragraphs 135-147 inclusive.

THE PROPOSED RULE MAKING

The notice seeks comment on a proposal to amend the definition of "insular areas", currently contained in 47 U.S.C. 254(b)(3).¹ The Commission specifically seeks comment on whether the definition should specifically exclude sovereign states² and expressly seeks comment on whether the Freely Associated States ("FAS"), which includes the RMI, should be included in the

¹ FCC 99-204 Para 136

² *Id* Para 137

definition.³

The Notice states that the Compact of Free Association between the FAS and the United States (“Compact”) gives the Commission authority and jurisdiction over various telecommunications services⁴. With all due respect, this statement is incorrect as it relates to the RMI. The RMI Government elected, pursuant to Section 131(b) of the Compact, to undertake the functions previously performed by the Government of the United States through the Commission.⁵

SUBMISSION BY NTA

The NTA is opposed to the inclusion of RMI into the definition of insular areas as proposed. The RMI is a sovereign state and while it acknowledges the valuable relationship with the United States, it has chosen to be self regulating and self sufficient in terms of telecommunications.⁶ NTA is currently a fully functioning, efficient international telecommunications facility. This has been recognized by the United States Government.⁷

As the notice proceeds on the basis that the Commission has jurisdiction over the RMI, it does not address whether or not the inclusion of the FAS states in the universal service provisions of the Act would also require the FAS states to submit to the jurisdiction of the Commission in its overall operations. This should be clarified and the FAS states and their Telecommunications providers should be given the opportunity to provide additional comment to the Commission.

It would appear that a unilateral act of the Commission to include the FAS states in the definition of a United States statute can not make that statute legally binding on a sovereign state.

The RMI Government has the option to regulate and control the action of its telecommunications provider in its country and any dilution of this authority would be an encroachment on sovereignty.

In addition, any imposition of a universal service fee upon NTA could add to the heavy cost

³ *Id* Para 139

⁴ *Id*

⁵ It is known that similar elections have been made by the Federated States of Micronesia and the Republic of Palau.

⁶ Compact of Free Association Section 131

⁷ Article IV Section 1 of The Agreement for Implementation of the Compact “Recognizing the Government of the Marshall islands has or will have a complete and fully effective commercial international telecommunications system compatible with existing United States installations...”

burden that already exists and further increase the cost of services to NTA customers⁸ It may also adversely affect NTA's profitability,⁹ which could jeopardize NTA's ability to meet its loan repayments to the United States Government through the Rural Utilities Service.¹⁰

SUMMARY

The NTA is opposed to including RMI in the definition of insular areas in terms of the universal service provisions. It is opposed to imposition of the jurisdiction of the Commission on RMI and NTA for economic and independence reasons. It recommends further consultation between representatives of the Commission, the Government of the RMI and representatives of NTA to consider any possible benefits.

Respectfully submitted,



Alan E. Fowler
President & General Manager
Marshall Islands
National Telecommunications Authority
P.O. Box 1169
Majuro Marshall Islands MH 96960
Fax 692 625 3952 Ph 692 625 3852
email aefowler@ntamar.com

⁸ Because of the high cost of infrastructure , a limited client base and isolation, NTA currently has high operating expenses.

⁹ NTA made a loss in FY 1998 of \$128,000.00.

¹⁰ NTA currently owes \$19 million to the RUS, in principal alone. NTA is required to make annual principal and interest payments of \$1.5 million.